

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Serial No.: 10/562,348 : PATENT APPLICATION

In re application of: :
Jurgen Luers

Filed: December 27, 2005 : **TELECOMMUNICATIONS TERMINAL
AND TELECOMMUNICATIONS**

Examiner: Wen Wu Huang : **ASSEMBLY**

Group Art Unit: 2618 :

Confirmation No.: 6250 :

Attorney Docket No.: 2003P07111WOUS :

REPLY BRIEF ON APPEAL

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REPLY BRIEF ON APPEAL

It is apparent from the Examiner's Response to Argument which appears at pages 17 through 24 of the Examiner's Answer that there is disagreement on the following points which should be resolved by the Board:

1. Whether the claims on appeal can be properly construed to encompass sequential display of information about a plurality of external gateways which are discovered. Applicant submits that such a construction is improper.

2. Whether Kotzin¹ teaches that a plurality of external devices/gateways are detected and displayed. Applicant submits that Kotzin does not.

¹ U.S. Published Application No. 2004/0204076 A1

3. Whether the absence of displayed information on the security badge when the wearer leaves the company facilities disclosed by Mooney² is a teaching of a plurality of gateways that provide access to a communications network and that a particular one of the external gateways is not within range of a telecommunications terminal. Applicant submits that Mooney provides no such teaching.

4. Whether there is motivation to combine Kotzin with Mooney. Applicant submits that there is not.

1. The Claims Require Simultaneous, Not Sequential, Display

At pages 17 through 20 of his Answer the Examiner insists that the claims on appeal must be interpreted to encompass a display device adapted for sequentially displaying information about a plurality of external gateways within range because claims must be given their broadest reasonable interpretation consistent with the specification. While the point of law is correct, the Examiner's claim construction is not because that construction violates another principal of claim construction. Claim constructions should give meaning to every term or limitation in a claim. Thus, claim constructions should not render other limitations within a claim superfluous. *Merck & Co., Inc. v. Teva Pharmaceuticals USA, Inc.*, 395 F.3d 1364, 1372 (Fed. Cir. 2005).

Claims 13 and 28 contain these limitations:

a display device adapted for displaying information
about a plurality of external gateways within range of the
local-area transceiver;

² U.S. Patent No. 7,176,849 B1

a selection unit adapted to select one of *the plurality of external gateways displayed by the display device* in order to communicate with the respective communications network via the selected gateway;

Construing claims 13 and 28 to encompass sequentially displaying information about a plurality of gateways would render the requirement that there be a plurality of external gateways displayed by the display device superfluous. Therefore, the Examiner's construction is not correct. When properly construed the claims require simultaneous, not sequential, display of information about a plurality of external gateways.

2. Kotzin does not display a plurality of devices

At page 20 of his Answer the Examiner says, "Kotzin teaches a plurality of devices within range are discovered and displayed (see Kotzin, para. {0016}[0017] and [0029]. Paragraph 0017 does say that "in operation the portable subscriber device will find, locate, or otherwise discover suitable devices" but the description of the operation of this device in paragraphs 28 and 29 clearly teaches that only one device is found at any given time and only information about that one device is displayed.

The process begins with the step "detect external device" in box 403 of Fig. 4. Indeed, in paragraph 0028 Kotzin says, "The method begins at 403 by detecting an external device that is capable of providing an interface to the portable device..." Box 409 of Fig. 4 says, "determine whether external device is available." Box 413 does not return to step 403 to search for other available devices if the "external device" is available. Hence, the flow chart clearly indicates that only one available device can be found at any given time. Moreover, the discussion of the operation of Kotzin's device in paragraph 0028 through paragraph 0030 repeatedly and only speaks of "the device." For

that reason the display does not and cannot display information about a plurality of external gateways. This conclusion is consistent with the step in box 417 which says, "Display availability circumstances and conditions to user." A single gateway may have "availability circumstances and conditions." When this step is read in conjunction with the paragraphs 0028 through 0030 of the specification, it is clear that information about only one gateway is being displayed.

3. Mooney does not disclose the display required by the pending claims.

At pages 20 through 24 of his Answer the Examiner argues that the absence of displayed information on the security badge as disclosed by Mooney would tell one skilled in the art that a particular one of several external gateways which provide access to a telecommunications network is not available. This is incorrect for at least two reasons. First, the security station with which the badge communicates is not a gateway which provides access to a telecommunications network. Second, there is no information that is ever displayed on the badge which would identify a particular security station.

At page 22 of his Answer the Examiner identified the security station disclosed by Mooney as the "external gateway providing access to a communications network" required by Applicant's claims. He says that Mooney discloses a piconet communications network and that this station provides access to the piconet communications network disclosed by Mooney. Mooney's piconet network consists of a plurality of electronic wireless badges 100a - 100c hosted by a network security station 150. Column 2, lines 43-47. Each badge contains a security code which is transmitted to the security station. The security station then sends back information that is displayed on the badge. Badges do not communicate with one another. The only communication that

occurs in this piconet is the exchange of information between individual badges and the security station. Column 5, lines 29-62. The security station does not provide a badge with access to anything. Consequently, the security station disclosed by Mooney does not meet the requirements of Applicant's claims for a gateway providing access to a communications network.

The security badge disclosed by Mooney receives information that is displayed on the badge. Mooney says that this information may include a photo of the authorized user corresponding to the authorization code in the electronic wireless badge, a name of the authorized user, an identification number, a company for which the displayed badge information relates, a membership type and a security level. Abstract. All of this information is information about the person wearing the badge. None of it identifies the security station. The absence of information on the badge could indicate that badge is not near a security station, but it could also indicate that the battery or other power source in the badge is dead, or that the badge otherwise not operating properly. Since all of these inferences are possible from the absence of information on the badge the Examiner erred in concluding that the absence of displayed information on a security badge teaches one skilled in the art to create a telecommunications terminal having a display for displaying information about a plurality of external gateways within range in a manner so that the absence of information about a particular gateway indicates that that particular gateway is not within range.

4. Those skilled in the art would not combine Kotzin with Mooney

The Examiner argues at page 24 of his Answer that it was proper to combine Kotzin and Mooney because they both are in the field of wireless communication. This ignores the fact that the two references are concerned with devices that are used for different purposes and operate in a significantly different ways. Kotzin is concerned with communication devices that connect to networks and permit people to talk to and otherwise communicate with one another over multiple networks. Mooney relates to electronic security badges which are not communication devices of the type disclosed by Kotzin. The security badges disclosed by Mooney only transmit security codes and only interact with a security station. Where, as here, the respective elements in the two devices function in very different ways and serve different purposes it is unlikely that one skilled in the art would combine them. See for example, *In re Scott* 19 USPQ 297 (CCPA 1963).

CONCLUSION

For the foregoing reasons the claims on appeal are patentable over the cited references. Reversal of the rejections of the appealed claims is respectfully requested.

Respectfully Submitted,

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